



November 5, 2001

The Honorable John Dingell, Ranking Member
House Energy & Commerce Committee
2322 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Dingell:

AARP commends the House Ways & Means and Energy & Commerce Committees for their efforts to reach bipartisan consensus on Medicare regulatory reforms. The bills that have emerged from both Committees can make a real difference for both beneficiaries and providers without opening new Medicare loopholes. The bills have many positive provisions in common. We urge that the best of both bills be incorporated into a final package.

For beneficiaries, one of the most important provisions is the one-year delay of the Medicare lock-in. The 1997 Balanced Budget Act required that, starting next year, beneficiaries not be allowed to change plans every month as they can now. In 2002, they may only change plans once in the first six months of the year, even if the Medicare+Choice plan they are in drops their doctor from its network or a drug they need from its formulary. In 2003 and beyond, beneficiaries may only change plans in the first three months of the year. AARP recognized that the 1997 lock-in provision offered beneficiaries some protection from being forced out of managed care plans. However, given the current uncertainty and shrinking enrollment in the M+C market, this is not the time to lock beneficiaries into plans. Therefore, AARP strongly supports the delay in the lock-in included in the Commerce bill.

The regulatory relief bills include several other provisions important to beneficiaries. We are particularly pleased that both bills would authorize a demonstration placing Medicare experts in Social Security offices. This holds great promise for getting beneficiaries the kind of one-on-one, in-person help they find most useful in answering Medicare questions.

We also are pleased that both bills address problems with the BIPA provision allowing beneficiaries to appeal national coverage determinations. Making the standard for such appeals whether an individual's circumstances justify an exception, rather than whether the national determination is reasonable for the program overall, seems to be a more pragmatic approach. However, the final bill needs to clearly require that beneficiaries are told when denials are based on national coverage determinations and that they have this appeal right.

Additional provisions important to beneficiaries are included in the bills, as well:

- The Commerce bill addresses a long-standing problem by allowing beneficiaries to seek preauthorization for certain claims that their provider is not sure will be covered. This is something that private insurers already do widely. Medicare's current policy requires beneficiaries to sign an Advance Beneficiary Notice (ABN) stating that they have been told the service might not be covered and that they are liable for the full cost if it is not. The result is that beneficiaries may forgo a procedure that may be medically necessary or risk substantial financial liability.
- The Ways & Means bill authorizes establishment of a beneficiary ombudsman, who could handle casework that now is often handled by Congressional staff, and also monitor the program and make recommendations on how it could better serve beneficiaries.
- The Ways & Means bill also establishes a single, toll-free line that could transfer beneficiaries to the contractor or other entity that can best help them out, which could help clear up the confusing array of numbers that now are offered for assistance.

Bringing the best of both bills together will create an important piece of legislation that can improve the program for beneficiaries and reduce the burden on providers – goals we all share. This would be a significant legislative achievement at any time, and all the more so under the difficult circumstances we now face. We congratulate you for working so hard for these constructive changes, and we look forward to working with you further to see them enacted into law.

Sincerely,



William D. Novelli,
Executive Director and CEO